

# INAJA COSMIT BAND OF MISSION INDIANS

1040 E. Valley Parkway, Suite A  
Escondido, California 92025  
inaja\_cosmit@hotmail.com  
(760) 747-8581 • Fax (760) 747-8568

ATTACHMENT C

Chairwoman  
*Rebecca Maxcy Osuna*

Vice-Chairwoman  
*Lisa Contreras*

June 11, 2002

John Hensley, Chairman  
California Gambling Control Commission  
2399 Gateway Oaks Drive, Suite 100  
Sacramento, CA 95833-4231

Chairman Hensley,

I am writing this letter on behalf of the California Tribes for Fairness in Compacting ("Coalition"), a Coalition of tribes whose mission is to ensure that all California tribes have a fair opportunity to share in the benefits of Indian gaming through the compacting process. On behalf of the Coalition we request that the California Gambling Control Commission withdraw its decision to approve the report released on May 29, 2002. The Coalition specifically requests that all tribes receive the opportunity to comment on the Commission's interpretation of how payments are to be made to the Revenue Sharing Trust Fund as well as its interpretation of the issuance of licenses for gambling devices.

On March 19, 2002, you and other members of the Commission met in San Diego, California to discuss payment methodology for the Revenue Sharing Trust Fund and licensing issues pursuant to the Tribal-State Compact. At the end of the meeting tribes in attendance were advised by the Commission that a report would be released within 60-90 days and would be available "to the entire State of California" for review and comment.

The Commission failed to provide this time period for comment and instead chose to act immediately by adopting the report on the same day it was released. This is particularly disconcerting to non-gaming tribes who will be materially affected by the Commission's arbitrary decision as it relates to previous and future payments made to the Revenue Sharing Trust Fund as well as the treatment of previously issued licenses.

The Coalition takes issue with the Commission's repeated reliance upon the May 9, 2000 letter written by William Norris and Chief Deputy Attorney General Peter Siggins, who interpreted the Compact as allowing only 15,400 licenses. No tribe, gaming or non-gaming, has ever accepted this interpretation of the Compact, and the Report is completely devoid of any discussion concerning the analysis offered by other Tribes concerning the number of gaming devices permitted by the Compact.

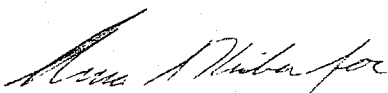
John Hensley, Chairman  
June 11, 2002  
Page 2

The Coalition also rejects the Commission's arbitrary determination that they are authorized to provide a credit or refund of the \$1,250 license fee to any Tribe that has failed, within one year of the receipt of a license, to place a gaming device in commercial operation. Section 4.3.2.2(e) unambiguously states: "[T]he license for any Gaming Device shall be canceled if the Gaming Device authorized by the license is not in commercial operation within twelve months of issuance of the license". The Commission cannot have it both ways by claiming the licensing process is valid for some purposes and not for others. All Tribes who participated in the tribal licensing process did so in "good faith", and in "good faith" agreed to place the gaming device obtained pursuant to the license in commercial operation within one year from the date the license was drawn. The Commission was provided no authority under the Compact or pursuant to state law to authorize a refund of a licensing fee that all Tribes knew and accepted as the cost of doing business.

Additionally, the Commission's arbitrary determination that the \$1,250 "non-refundable one-time prepayment" fee to acquire a license should be interpreted as a prepayment towards future fees has no foundation in law or in the Compact itself. Chairman Hensley's assertion to the press that in the long term this decision will all "wash out" is false. This decision virtually guts the Revenue Sharing Trust Fund of approximately \$37 million, funds that are desperately needed by those tribal communities who need it the most. Regardless of the Commission's interpretation that it's role is to merely as the administrator "of a public program in the nature of a quasi-trust", no administrator should be permitted to establish policy in such a manner that guts a fund of approximately \$37 million to the detriment of many impoverished tribes in the State of California.

One of the "objective intents" of the Compact was to provide non-gaming tribes and tribes with small gaming operations a share of the revenue. Not only was this the intent of the Compact, but the intent of the voters with the passage of Proposition 1A. The Commission's arbitrary decisions seriously undermines this intent, and the Coalition respectfully requests that the Commission's decision to hastily approve this report be rescinded to allow for meaningful input from all who share an interest in this matter, particularly non-gaming Tribes with small gaming operations who have been detrimentally affected by the Commission's approval of this report.

Sincerely,



Edward Arviso, Chairman  
California Tribes for Fairness in Compacting